

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



**CORRECTED
FISCAL NOTE**

SB 3023 - HB 3456

March 16, 2012

CORRECTED SUMMARY OF BILL: Authorizes a judicial chancellor to award back pay to tenured faculty who have been wrongly terminated.

ESTIMATED FISCAL IMPACT:

On February 11, 2012, a fiscal note was issued for this bill with a fiscal impact of: *Other Fiscal Impact – According to TBR, there has been one case in the 40 year history of TBR in which termination of a tenured faculty member was deemed inappropriate. The exact number of cases in which termination will be declared inappropriate in future years is unknown but is estimated to be small. The average salary and benefits excluding health care for a tenured TBR faculty member is \$95,800. The average time to resolve a wrong termination suit is seven years. In the event that the Chancellor awards back pay, the increase in one-time state expenditures per case would be \$670,700.*

After consulting with the Tennessee Board of Regents (TBR), it has been determined that the summary was in error. The fiscal impact and assumptions have been changed to reflect the impact in the first two years after the bill's enactment and how an award of back pay will be handled by TBR in the future. Based on the information received from TBR, the fiscal impact is as follows:

(CORRECTED)

NOT SIGNIFICANT

Assumptions:

- The number of future cases in which termination will be deemed inappropriate and back pay will be awarded is unknown. According to TBR, there has been one case in 40 years in which the dismissal of a faculty member was deemed inappropriate.
- The average annual salary and benefits for a tenured TBR faculty member is \$95,815.
- According to TBR, each case will take an average of seven years to resolve.
- There are currently no pending wrongful termination cases of TBR faculty members, so there will not be a fiscal impact on state expenditures in FY12-13.
- A fiscal impact may result if back pay is awarded as a result of a future lawsuit. In this situation, the back pay awarded by the chancellor will be paid in a lump sum.

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- According to TBR, in the event of back pay being awarded, TBR will shift funding from existing resources to pay for the award. This will result in a decrease in other budget items or a decrease in the balance of a reserve account. TBR does not anticipate requesting any additional state appropriation in the event of an award of back pay.
- Based on TBR's history of such cases, there is a low likelihood of a wrongful termination case in which back pay is awarded.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

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